

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 13, 2003 at 8 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: Rep. Steven Gallus (D)

Members Absent: None.

Staff Present: Lisa Swanson, Committee Secretary
John MacMaster, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 37, 3/10/2003
Executive Action: SB 223; HB 124

HEARING ON SB 37

Sponsor: SENATOR DALE MAHLUM, SD 35, Missoula

Opening Statement by Sponsor:

SENATOR MAHLUM opened on SB 37 which revises the original Senate Bill which was first heard on February 6, 2003. All that is left of the original bill are Lines 4-6. He stated that this amended bill would revise laws relating to penalties for driving under the influence of alcohol or drugs. He explained that this bill would bring Montana in line with federal requirements. It would increase license reinstatement fees, extend the driver's license suspension and revocation period and require a defendant to have an interlock device. It would increase penalties for a refusal to comply with blood alcohol concentration tests (refusal to blow) by increased fines and jail time. SB 37 would allow courts to impose community service and house arrest for a first through a third offense. He emphasized this bill would require the Department of Revenue (DOR) to keep a list of persons convicted of felony DUI or per se offenses, a black list, and authorize sellers of alcohol to refuse to sell to persons on the list. The bill would allow the defendant's conviction to be expunged after five years if they meet the criteria.

EXHIBIT(juh53a01)

{Tape: 1; Side: A; Approx. Time Counter: 1 - 145}

Proponents' Testimony:

Mona Jamison, Boyd Andrew Community Services and Prerelease, Helena, supported SB 37. She stated that this bill is a good compromise. If the violator has no other convictions within five years of a conviction under 61-8-406, the record may be expunged. She stressed this expungement should only apply to a first time offender.

{Tape: 1; Side: A; Approx. Time Counter: 146 - 219}

Tim Reardon, Chief Counsel, Department of Transportation, Helena, supported SB 37. He stated this bill is necessary in order for Montana to keep its federal highway construction funds.

Wayne Schirrer, Rocky Mountain Interlock, Helena, supported SB 37.

Don Hargrove, Montana Addictive Services Providers supported SB 37. He stated he likes all aspects of the bill. He called attention to Section 6, Page 8 of the bill regarding the expungement of the record. He emphasized the bill intended expungement to apply to only a first offense.

{Tape: 1; Side: A; Approx. Time Counter: 220 - 297}

Mark Staples, Montana Tavern Owner's Association, supported SB 37. He stated that the Tavern Owner's Association (Association) has a stern outlook upon people who drink and drive. He felt the first time offender needs to be assessed differently than the second or third offender.

Christy Blazer, Montana Beer and Wine Wholesalers Association (Wholesalers), supported SB 37. The Wholesalers support bills which increase highway safety. She believes the laws need to be tough but fair. She felt the first time offender expungement would be fair. She emphasized that North Dakota treats their first time offenders tough but fair giving the expungement for a first time offender. Iowa gives a first time offender a work permit to drive.

EXHIBIT (juh53a02)

Spook Stang, Executive Vice President for Montana Motor Carriers Association, supported SB 37. He asked that commercial vehicles be excluded from the expungement section of the bill.

{Tape: 1; Side: A; Approx. Time Counter: 298 - 441}

Pam Bussey, Department of Justice (DOJ), supported SB 37. She emphasized that this bill was designed for repeat offenders. Regarding expungement, she commented that it would be difficult to get to a second offense if the first is masked.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 17}

Carrie Hegreberg, Montana Contractor's Association, supported SB 37. He stated that every million spent in Montana generates 42 jobs. He explained that the members build highways in active traffic zones. He stated that people who drink and drive are posing a grave danger to people working on the highways.

Elaine Slighter, Miller Brewing Company, supported SB 37.

Mike Ruppert, CEO, Boyd Andrews, supported SB 37. He stated Boyd Andrews provides the ACT and the Chemical Dependency Treatment Programs. He explained that DUI drivers are not victims and asked the Committee to strike the language on Page 8 regarding expungement.

{Tape: 1; Side: B; Approx. Time Counter: 17 - 76}

Beda Lovitt, Physicians of Montana Medical Association, supported SB 76.

Opponents' Testimony:

Mike Barrett, Helena, opposed SB 37.

Mike Grayson, City Attorney, Deer Lodge, opposed SB 37. He explained he supported 90 percent of the bill but that the expungement section of the bill would have to be removed in order for him to be a proponent. He stressed that a driver could get a DUI every six years and each one considered a first under this bill. He urged a do not pass unless the expungement is removed.

EXHIBIT (juh53a03)

{Tape: 1; Side: B; Approx. Time Counter: 77 - 199}

Jim Smith, Montana County Attorney's Association, opposed SB 37. He stressed that Montana must send a bold message against drunk driving and this bill goes against that message.

Informational Testimony: None

Questions from Committee Members and Responses:

The Committee discussed that the real problem involves the high BAC driver. **Mr. Staples** responded that SB 37 would encourage people to blow, encourage people to plead guilty, and that a five year period before expungement is hardly "a freebie." **REP. RICE** asked how this bill would fare in the real world. She asked about whether bartenders would ask a person their name. **Mr. Staples** responded that the bill is more form than function as bars are not the civil police. **REP. RICE** commented on "creeping criminalization."

REP. STOKER commented that the feds never forget your record, expungement or not. **Mr. Stang** responded that is a valid point.

He stressed that there is not a federal tracking system which causes some confusion between the DMV and the feds.

Mr. Reardon commented it would cost \$14,548 to implement this bill.

Closing by Sponsor:

SENATOR MAHLUM closed on SB 37. He stated that the expungement should only be for the first time offender.

EXECUTIVE ACTION ON SB 223

Motion: REP. NOENNIG moved that SB 223 BE CONCURRED IN.

Motion: REP. FACEY moved that SB 223 BE AMENDED. Motion carried 13-5, by voice vote, with REPS. GUTSCHE, HARRIS, NEWMAN, PARKER, and SALES voting no.

Motion: REP. FACEY moved that SB 223 BE CONCURRED IN AS AMENDED.

Discussion:

The Committee discussed whether this is a good seatbelt bill. Some felt it was a bad bill. It does not cover property damage. Many members felt it will not have the intended effect of causing more people to wear seatbelts. The Committee discussed problems with the bill.

Motion/Vote: REP. GUTSCHE moved that SB 223 BE TABLED. Motion carried 10-7, by roll call vote, with REPS. EVERETT, FACEY, LANGE, NOENNIG, RASER, SHOCKLEY, and THOMAS voting no.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 289}

EXECUTIVE ACTION ON HB 124

Motion/Vote: REP. CLARK moved HB 124. Motion carried 12-4, by roll call vote, with REPS. MALCOLM, RICE, SALES, and STOKER voting no.

Motion/Vote: REP. GUTSCHE moved that HB 124 BE CONCURRED IN AS AMENDED. Motion carried 14-3 with REPS. LASZLOFFY, RICE, and SALES voting no.

ADJOURNMENT

Adjournment: 12 P.M.

REP. JIM SHOCKLEY, Chairman

LISA SWANSON, Secretary

JS/LS

EXHIBIT (juh53aad)